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FEDERAL COMMUNICATIONS COMMISSION
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Honorable William Clay
House of Representatives
2306 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Clay:

Thank you for your letter on behalf of Scott R. Widham, President of Capital Cable. Your constituent is concerned about several aspects of our new rate regulations adopted pursuant to Cable Television Protection and Competition Act of 1992. He also complains about the new must-carry and retransmission consent rules.

The effective date of our rate regulations has been delayed to September 1, 1993. This proceeding is under formal reconsideration by the Commission and your constituent's letter will be placed in the record of this proceeding **(MM Docket No. 92-266)**.

To the extent your constituent complains about the adoption of must-carry and retransmission consent rules, you may wish to advise him that the Commission's rules simply implement the provisions adopted by Congress in the 1992 Cable Act.

Sincerely,

Roy J. Stewart

Roy J. Stewart
Chief, Mass Media Bureau

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List A B C D E

House of Representatives, U.S.

MEMORANDUM

2853

MMB CATV-92

The attached refers to a subject in which you are interested, and is, therefore, referred for your information.

Yours very truly

WLC

CABLE

Capital Cable

JUL 7 1993

July 1, 1993

P.4868

Congressman William Clay
United States Congressman
2306 Rayburn H.O.B.
Washington, D.C. 20515

Dear Congressman Clay:

The purpose of this letter is to ask you to investigate several areas of the new cable law which will put us in default of our debt covenants and will probably cause us to go out of business.

First, some back ground on my company. I founded Capital Cable in 1988 as a cable television management company. Since that time, we have either acquired or built cable systems in 75 communities. We have strived to provide our customers with good value and quality customer service. We have excellent relations with our municipal officials and have steadily increased the number of subscribers we serve.

As our 29,000 subscribers are served by 65 different headends in eight states, we are not as efficient as an operator with a more concentrated subscriber base. Items such as gasoline, adding channels, headend rent, property taxes, and telephone are areas we incur a higher cost per subscriber.

I will narrow my concerns regarding the new law to two areas. First, is the issue of rate regulation. While we can easily live with rate regulation going forward, rolling our rates back ten percent or greater causes us to lose at least 20% of our operating cash flow. A reduction of that size in our rates would cause us to go bankrupt. According to the FCC instructions, our alternative to rolling back our rates is to do a cost of service showing. Aside from the complexity and expense to preforming a cost of service showing in 65 systems, the FCC has not issued guidelines for the cost of service showing. Furthermore, the FCC threatens we could experience a rolled back lower than the benchmark rates depending on the parameters of the cost of service showing. When our costs are accounted for, I'm comfortable we can substantiate our rates. However, if we are not allowed to include costs such as interest expense or

acquisition costs, we could be lowered to a rate below the benchmark. Representative Markey has been quoted as saying these expenses should not be counted because the operator payed too much for the system. I submit to you we did nothing illegal when we purchased these systems and forcing us into bankruptcy is not the solution.

The second issue I would like you to look into is the area of must carry and retransmission consent. Broadcasters in our areas are now asking for as much as $.50 per subscriber per month for their signals. They argue that $.50 per subscriber per month is equivalent to the amounts we pay for services like ESPN and CNN. Unlike purchasing services like CNN and ESPN, free market conditions do not apply to broadcasters because retransmission is coupled with must carry and other constraints such as nonduplication of network signals and syndication exclusivity. In a real free market, payments could be made to those few stations that could reasonably demand fees based on their value to cable. Cable systems could then charge other broadcasters for the distribution cable provides to them. Further, if any particular broadcaster had unreasonable expectations about the value of their signal, a cable operator would be free to enter into negotiations with another affiliate of the same network or with other stations that carried the same programming. The bottom line of all this is we do not have the money to pay these broadcaster for signals people can receive for free. Particularly when we are being forced to lower our rates and cannot pass these charges on. If the purpose of the bill was to lower cable bills, why was a provision made to charge cable subscribers for retransmission consent?

Unfortunately, we are fast on our way to going out of business. I sincerely hope we can meet and discuss these important issues further. I can meet anywhere at any time. Thank you for your consideration.

Best regards,

Scott R. Widham
President

CABLE

CROWN CABLE

June 17, 1993

P.4869

Honorable William Clay
2470 Rayburn Building
Washington, D.C. 20515-2501

Dear Representative Clay:

Since the enactment of the Cable Television Consumer Protection and Competition Act of 1992, Crown has worked diligently to implement the various provisions of the Act in our cable operations. When possible, our implementation schedule has been timely and in accordance with the Act's deadlines. We have fully communicated our actions to the local franchise authorities so they might have a better understanding of the reasons for the many changes that have occurred to date. We plan to continue to advise them of all forthcoming changes that may significantly impact cable service for our customers.

The most significant challenges we face are compliance with the rate regulation and must-carry/retransmission consent provisions of the Act and subsequent FCC rulemakings. There currently exists much confusion about the former and considerable misinformation regarding the latter. Nevertheless, we have made and will continue to make good faith efforts to comply with both provisions of the law.

Since the FCC issued its rules on rate regulation last month, Crown has worked diligently to understand, interpret and apply the complex 500 page document to our business. The rules are complicated and cumbersome and have generated more questions than answers. Consequently, the FCC took action on Friday, June 11, to defer the effective date of its regulations implementing rate regulation of cable service from June 21, 1993 until October 1, 1993. The FCC indicated, and we agree, that a deferral of rate regulations would provide franchising authorities and cable operators additional opportunities to ensure a smooth transition to rate regulation. As you are aware, the Commission also extended its current freeze of cable service rates from August 3, 1993 until November 15, 1993.

Although implementation of the rate regulation has been delayed, other provisions of the law are becoming effective. We wish to advise you of several actual and possible channel lineup changes that may inconvenience our customers as a result of the must-carry and retransmission consent rules. We are advising our

[illegible] Dielman Industrial Drive [illegible] St. Louis, MO [illegible] Fax [illegible]

franchise authorities and customers of these changes well in advance to educate them on the reasons for more channel realignments and the addition/deletion of various cable and broadcast channels.

Under federal law, we were required by June 2 to dedicate sufficient channel capacity to carry all area commercial broadcast stations. In the St. Louis market we already carry the full range of broadcast stations that qualify for must-carry rights under the law and did not have to add any new stations. We are in full compliance with the must-carry requirements.

Under the retransmission consent requirements, broadcast stations were required to notify us by June 17 whether they chose must-carry or wished to withhold their consent to cable carriage. If they chose the latter, federal law allows the cable operator and broadcaster to discuss and negotiate the terms of granting consent to carriage. Negotiations must be concluded by October 5, 1993 and are effective for 3 years. If no agreement is reached, the broadcast channel must be removed from the cable channel line-up.

Crown believes it is in everyone's best interest for the broadcasters to elect must-carry status, however, if the broadcaster elects retransmission consent and we are unable to reach an agreement on carriage requirements, Crown will take steps to minimize customer viewing disruption by making A/B switches available to our customers at cost.

In many markets we serve, Crown enjoys an excellent working relationship with the area broadcasters. However, it is our belief that it is unfair for the cable operator to pay cash for broadcast signals that non-cable subscribers receive at no cost. Crown will maintain an open door policy and continue to talk to any broadcaster wishing to meet with us to discuss signal carriage.

We will advise you further of our progress in implementing the 1992 Cable Act, and specifically, how it impacts our customers. As always, we would be pleased to meet with you at any time to answer your questions or respond to constituent inquiries.

Sincerely,

David Niswonger
System Manager

DN/jw